# 134658 - Is it acceptable for his salary to be a percentage of the income of the dentist’s clinic, in addition to a fixed amount?

**the question**

I am a dentist and I made a contract with a dentist’s clinic to work with them for a fixed percentage, 30%, of the income of the clinic, in addition to a fixed accommodation allowance and a plane ticket. My question is: is there anything unlawful in this contract? If the income is small, for example 10,000, I will take 3,000 which will leave him with 7,000. In this case, he will be a loser, because this amount is not sufficient to cover his expenses such as rental of the place, salary for a nurse and materials, and so on. So I will gain and he will lose. What is the ruling, especially since it is not possible to work out the percentage from the net profits, because the clinic expenses are mixed with the expenses of the hospital? My second question is: can he give me a fixed amount for my annual leave, or not? I hope that you can respond with shar‘i evidence.

**Detailed answer**

Praise be to Allah.

Firstly:

In order for an employment contract to be valid, it is stipulated that the wages be known, so if it is a known amount, then it is permissible according to scholarly consensus.

If it is a percentage, such as 30%, or a quarter or a fifth (of the income or profits), for example, then there is a difference of opinion among the fuqaha’ concerning that. The majority are of the view that it is not valid, because what the worker will earn is unknown. The Hanbalis regarded it as permissible for the wages to be a percentage (of the income or profits), by analogy with musaaqaah (when trees are given to someone to tend and irrigate in return for a share of the harvest) and muzaara‘ah (where one person supplies land and another cultivates it).

As for combining a share (of the income or profits) and a fixed salary, it is not allowed according to the majority, although it was narrated from Ahmad (may Allah have mercy on him) that it is permissible, and this was also the view of some of the early generations.

Ibn Qudaamah (may Allah have mercy on him) said: If he gives him, in addition to that [share of the harvest] a known amount of dirhams, it is not permissible. This was narrated from him [Imam Ahmad], and it was also narrated from him that it is permissible, but the correct view is the former. Abu Bakr said: This is an earlier view, and whatever was narrated other than that is what is to be relied upon.

al-Athram said: I heard Abu ‘Abdillah say: There is nothing wrong, when selling a garment, with giving the weaver [a fee of] one third or one quarter [of the price].

He was asked about a man who weaves a garment that someone else will sell, in return for one third of the (eventual selling) price plus one or two dirhams. He said: I dislike that, because it is something that is not known. But if it is in return for one third (of the price) without anything extra, then we regard it as permissible, because of the hadith of Jaabir, according to which the Prophet (blessings and peace of Allah be upon him) left Khaybar in the hands of the Jews in return for half of the yield. It was said to Abu ‘Abdillah: What if the weaver does not agree unless he is given one third plus a dirham? He said: Then he should be given one third plus two tenths of a third, or one half of a third, or the like [that is, he should increase the percentage rather than giving him a fixed additional amount].

Al-Athram narrated from Ibn Sireen, an-Nakha‘i, az-Zuhri, Ayyoob and Ya ‘la ibn Hakeem that they regarded that as permissible.

End quote from al-Mughni.

See also: Sharh Muntaha al-Iraadaat (2/228), al-Insaaf (5/454).

So if your salary is 30% of the clinic’s income, plus a fixed amount for the accommodation allowance and the plane ticket, this is combining a percentage and a fixed amount. The same

applies if the salary is 30% in addition to a fixed amount for the annual leave. To be on the safe side, the salary should be a fixed amount only, or a percentage only, without combining the two.

Thirdly:

If the owner is pleased with this percentage, and you have both agreed to that, there is no blame on you. Perhaps he is hoping that the income will be great, in which case both of you will gain. With regard to him possibly losing sometimes, that is also possible even if your salary is a fixed amount, if the net profit is not sufficient to cover that amount.

And Allah knows best.